

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

January 9, 2013

Mr. Marvin E. Odum  
President  
Shell Oil Company  
P.O. Box 2463,  
Houston, TX 77252

Dear Mr. Odum,

I write regarding news reports that indicate the timing of Shell Oil's decision to attempt to move its Kulluk drill ship out of Alaska may have been driven, in part, by a desire to avoid potentially incurring Alaskan state tax liability on the rig. These reports that financial considerations rather than safety may have factored into Shell's considerations, if true, are profoundly troubling.

Based on conversations between the Democratic Staff of the Natural Resources Committee and the Alaska Department of Revenue, it does appear that Shell could have been exposed to potential state tax liability on the Kulluk drill rig if it remained in the state on January 1<sup>st</sup>. Chapter 43.56 of the Alaska Statutes states that an annual tax of 2 percent can be assessed each tax year on January 1<sup>st</sup> on "the full and true value of taxable [oil and gas] property taxable under this chapter."<sup>1</sup> Shell had reportedly spent \$292 million just on upgrades to the Kulluk since purchasing the drill rig in 2005.<sup>2</sup> That would mean that Shell could have potentially been exposed to state tax liability on the Kulluk in excess of \$6 million.

The Alaska Department of Revenue had not yet made a decision about whether to seek to tax the Kulluk, according to Alaskan officials. However, it does appear from statements made by Shell officials that the desire to avoid even the possibility of taxation on the rig was a factor in Shell's decision to move the rig when it did. Indeed, Shell spokesman Curtis Smith was reported as stating that "taxes were a consideration."<sup>3</sup> Smith went on to state that the avoidance of potential taxes on the drill rig was "not among the main drivers for our decision to begin moving the Kulluk."<sup>4</sup> However, claims by Shell that the primary reason for beginning to move the rig on December 21, 2012 was a long period of forecasted good weather in the Gulf of Alaska do not seem to match the facts.

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<sup>1</sup> Available at: <http://www.tax.alaska.gov/programs/documentviewer/viewer.aspx?27s>

<sup>2</sup> CNBC, January 3, 2013. Available at: <http://www.cnbc.com/id/100349930>

<sup>3</sup> Anchorage Daily News, January 4, 2013. Available at: <http://www.adn.com/2013/01/04/2742776/kulluk-poses-some-ticklish-tax.html>

<sup>4</sup> Id.

Shell spokesman Smith cited a prolonged period of good weather as the principal factor behind the timing of Shell's decision to move the Kulluk, stating "What mattered most to Shell was the two-week window of good weather (leaving on Dec. 21)...Had it not been favorable, we would not have departed from Dutch Harbor, regardless of tax."<sup>5</sup>

Natural Resources Committee Democratic Staff conversations with the Alaska office of the National Weather Service (NWS) do not back up Shell's claims regarding the weather forecast. First, while the Shell official cited a two week window of good weather, National Weather Service marine forecasts in Alaska extend only for five days, not two weeks.

Moreover, according to the National Weather Service, while Shell meteorologists engaged in coordination conference calls with National Weather Service personnel in Alaska multiple times per week during Shell's drilling operations this summer, those conference calls ended on November 15, 2012. Also, Shell does not appear to have consulted with the National Weather Service regarding the forecast prior to the Kulluk commencing its ill-fated voyage.

On Sunday, December 23, the National Weather Service began forecasting the presence of severe weather in the Gulf of Alaska during the forecast period. That forecast also indicated a gale warning. The National Weather Service forecast for the following day, Monday, December 24, 2012, predicted winds reaching 25 and 30 knots in the Gulf of Alaska on Thursday, December 27<sup>th</sup> and Friday, December 28<sup>th</sup>, respectively, and seas in excess of 20 feet on both days. The NWS forecast issued that same day for the coastal waters south of the Alaska Peninsula also predicted winds reaching 25 knots and seas in excess of 20 feet on December 27<sup>th</sup> in that area. Those dates correspond with the dates that Shell first began experiencing problems in towing the Kulluk.

This information raises additional questions as to whether Shell properly evaluated the potential of severe weather before beginning to transport the Kulluk, how Shell decided on the timing of the movement of the drill rig, whether Shell fully considered options to avoid the severe weather that led to the grounding of the Kulluk, and whether Shell's financial interest in avoiding potential tax liability under Alaska state law might have played a larger role in the company's decision to move the Kulluk than has been acknowledged.

I therefore ask that you respond to the following questions in writing by the close of business of Thursday, January 17, 2012:

1. Who at Shell made the decision to begin moving the Kulluk drill rig on December 21, 2012? What factors did Shell consider in deciding to move the rig on that date? Was the avoidance of potential tax liability on the rig under Chapter 43.56 of the Alaskan Statutes a factor that Shell at all considered in that decision? Please provide all internal

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<sup>5</sup> Alaska Dispatch. January 3, 2012. Available at: <http://www.alaskadispatch.com/article/did-alaska-tax-liability-influence-shell-oils-latest-arctic-fiasco>



correspondence related to the decision of the timing of moving the Kulluk, including any internal discussions or documents related to potential tax liability on the rig.

2. Please describe the procedures that Shell has in place, if any, to ensure that it is safety and not financial considerations that dictate Shell's decisions with respect to offshore drilling and the movement of drilling and related equipment in Alaska.
3. Is Shell philosophically opposed to leaving its rigs in Alaskan state waters and paying a tax under Chapter 43.56 of the Alaska Statutes?
4. What was the basis for the claims made in news reports by Shell officials that there was a two week period of good weather in the Gulf of Alaska? Please provide all internal correspondence used by Shell to arrive at this conclusion, as well as all correspondence between Shell and other entities on this subject.
5. Did Shell consult with the National Weather Service or any other agencies prior to deciding on the timing of moving the Kulluk? If not, why not?
6. When did Shell first become aware of the forecasted presence of severe weather along the route the Kulluk was scheduled to take? Once Shell became aware that severe weather was forecast for the Gulf of Alaska, did Shell consider any options that would have allowed the Kulluk to avoid severe weather while under tow and, if so, what were they? If not, why not?

I thank you for your attention to this matter. Please contact Morgan Gray on the Democratic Staff of the Natural Resources Committee at (202) 225-6065 if you have any questions regarding this request.

Sincerely,



Edward J. Markey  
Ranking Democratic Member  
Committee on Natural Resources